

REMARKS

Claims 1-84 are now pending in the application, new claims 59-84 having been added by the present amendment. Claims 1, 16, 24-26, 31, 33, 35, 38, and 49 have been amended.

Claim 1 has been amended to incorporate a limitation previously recited in claim 25. **Claims 16 and 24** have been amended to correct errors in spelling and grammar. Support for the amendments to **claims 25 and 38** can be found in the specification at, for example, page 4, lines 14-18. Support for the amendments to **claims 26 and 47** can be found in the specification at, for example, page 6, line 27 through page 7, line 4. New **claim 59** is supported by the specification at, for example, page 7, lines 16-18 and 22-23, and by Fig. 2B. The new claims that depend from claim 59 (**claims 60-84**) are similar to the claims that depend from original claims 1 and 26. No new matter has been added.

35 U.S.C. § 102(b)

Claims 1-58 were rejected as being anticipated by Yannas *et al.* (U.S. Patent No. 4,060,081; herein, "the Yannas patent"). The Examiner states, "Yannas et al. disclosed a non-woven implant having a porous film with plurality of cells as is claimed" (Office action at page 2). The Examiner refers to Figure 1 of the Yannas patent and to the specification at column 3, lines 36-68 and column 5, line 29.

In view of the present amendment, Applicant respectfully requests reconsideration and withdrawal of this ground for rejection. Claim 1 has been amended to cover a non-woven soft tissue implant that has a surface area ratio of less than 1.5. The Examiner's attention is directed to the present Figures, particularly Fig. 6B, 8B, and 9B, where Applicant demonstrates how to calculate the surface area ratio of an implant. The surface area of the implant (*i.e.*, the sum of the areas on the top, bottom, and side (thickness) of the implant) is divided by the surface area of the unit cell(s) within the implant. The larger the cells, the lower the surface area ratio. For example, where the surface area of the implant is 1.0 and the area of the cells is 0.1, the surface area ratio is 10; where the surface area of the implant is 1.0 and the area of the cells is 0.5, the surface area ratio is 2.0; where the surface area of the implant is 1.0 and the area of the cells is 1.0, the surface area

ratio is 1.0; and so forth. To fall within the scope of amended claim 1, the cells within the implant must be large enough to reduce the surface area ratio to less than 1.5. The cells within the device disclosed by the Yannas patent are not that large. As can be seen from the Figure of the Yannas patent, the top and bottom of the implant is nearly solid. Only small pores are visible, and the specification makes it clear that Yannas' device is preferably configured to reduce moisture loss from the body. For example, Yannas states, "[t]he rate of body moisture loss and heat loss from the damaged skin area is controlled to levels close to those with normal skin" (column 4, lines 30-33). As claims 2-25 depend from claim 1, they incorporate the limitations of claim 1 and, therefore, cover only devices with a surface area ratio of less than 1.5. As no such device is disclosed by Yannas, this ground for rejection should be withdrawn, at least insofar as it was applied to claims 1-25.

With respect to claims 26-54 (claim 26 being an independent claim from which claims 27-54 depend), Applicant has amended claim 26 to specify that the first film and/or the second film within the implant are axially oriented. The Examiner's attention is directed to, for example, Example 1 at page 18 of the specification, where a non-woven soft tissue implant was constructed using biaxially-oriented polymer films. Applicant sees nothing in the Yannas patent suggesting that the implant should be axially oriented. As Yannas fails to disclose an implant having this feature, Yannas cannot anticipate any of claims 26-54.

New claim 59 is an independent claim covering non-woven soft tissue implants having at least two porous biocompatible films. The two films must consist of the same material or be of substantially the same thickness. Yannas does not disclose such implants. To the contrary, Yannas states, "[t]he multilayer membranes described herein have at least two layers of *different materials* (column 4, lines 56-57; emphasis added). Moreover, the Figure illustrates layers of different thicknesses and Yannas provides examples of a membrane in which the first layer is 15 mils thick and the second layer is 5 mils thick. Accordingly, Yannas does not disclose an implant that is identical to the implant Applicant now claims by way of claim 59 and the claims that depend therefrom. Thus, Yannas cannot anticipate these claims, and the rejection should not be applied to them.

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CONCLUSION

In view of the foregoing, Applicant respectfully submits that the present claims are now in condition for allowance.

Applicant also respectfully requests an initialed copy of the Information Disclosure Statement filed on October 31, 2003.

Enclosed is a check for excess claim fees. No other fees are believed due. If there are any fees, or any credits, please apply them to Deposit Account No. 06-1050, referencing Attorney Docket No. 14188-002001.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Lee Crews', is written over a horizontal line.

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